

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

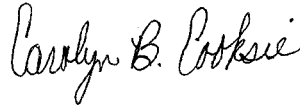
Notice FLP-395

1951-C, 1955-A, 1956-B, 1962-A, 1965-A

For: State and County Offices

Collection Through Cross-Servicing and Debt Settling Uncollectible FLP Debt

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

The Debt Collection Improvement Act of 1996 (DCIA) requires FSA to refer all eligible delinquent debt, including judgments, equity receivables, and leases, to Treasury for cross-servicing and the Treasury Offset Program (TOP). Referral to Treasury for cross-servicing and TOP must be considered before processing debt settlement offers under RD Instruction 1956-B. If a greater recovery of taxpayer dollars is possible through referral to Treasury, then the debt must be referred to Treasury.

This notice outlines the following changes from the previous established policy.

- Debt must now be accelerated or fully matured before classifying a debt as currently not collectible (CNC) and referring it to cross-servicing.
- All of a borrower's debt that has been referred to the cross-servicing program must be returned from cross-servicing before canceling any of the borrower's debt. In some cases, Treasury, or Treasury's private collection agencies (PCA's), may negotiate an acceptable compromise or adjustment offer. FSA can approve these settlement agreements on Treasury's debt settlement form on a loan-by-loan basis as presented by Treasury. However, cancellation of any remaining loan balance on the compromised or adjusted loans will not be processed until all of the borrower's loans have been returned from cross-servicing. This includes interest accrued from the date of CNC through the date of final payment for a debtor paying in full through cross-servicing.

Notes: Treasury has different requirements for TOP and cross-servicing. TOP referrals are done quarterly and cross-servicing referrals are done monthly. Once referred, the debt will remain at Treasury for TOP until the delinquency is resolved.

All references to "borrower" or "debtor" include references to "co-borrower" or "co-debtor".

Disposal Date	Distribution
January 1, 2007 8-26-05	State Offices; State Offices relay to County Offices

1 Overview (Continued)

B Purpose

This notice provides guidance on the following:

- classifying debt as CNC
- referring debt to Treasury for cross-servicing
- servicing debt referred for cross-servicing
- servicing debt after it has been returned from Treasury
- canceling uncollectible debt.

C Contact

If there are questions about this notice:

- County Offices shall contact the State Office
- State Office shall contact 1 of the following:
 - Mary Durkin, LSPMD at 202-720-1658 for debt settlement, acceleration, and statute of limitation issues
 - Constance Rime, LSPMD at 202-690-4012 for offset and cross-servicing issues
 - KCFO, Loan Operations Division (LOD), Program Reporting Branch (PRB) at 314-539-2494 for TOP and cross-servicing processes.

2 Cross-Servicing

A Classifying Debt as CNC

DCIA requires that any nontax debt or claim owed to the United States that has been delinquent for a period of 180 calendar days be referred to Treasury for collection. There are several exemptions that are covered in FSA-1956-20.

All requirements listed in FSA-1956-20 must be met before classifying a debt as CNC. All debts must be classified as CNC to be referred to cross-servicing.

County Offices shall prepare FSA-1956-20 to classify the debt as CNC when all security has been liquidated, the debt has been accelerated, or the loans are fully matured, and the debtor:

- does not return a complete debt settlement application within 30 calendar days of receiving RD Instruction 1955-A, Exhibit F
- submits a complete application for debt settlement that is not acceptable to FSA after receiving RD Instruction 1955-A, Exhibit F.

County Offices shall submit FSA-1956-20 to the State Office through the District Director.

2 Cross-Servicing (Continued)

B Processing CNC Debt for Cross-Servicing

State Office shall:

- process transaction code “3K” on the Automated Discrepancy Processing System with a class of write off code “5”
- refer debts for cross-servicing by completing and submitting FSA-1956-21 to KCFO, LOD, PRB by FAX at 314-539-6266

Note: Notate whether the borrower and co-borrower are still married and living at the same residence.

- recall or delete debts from cross-servicing when they no longer meet CNC requirements, such as when the borrower files for bankruptcy protection or the statute of limitation expires, by completing and FAXing FSA-1956-22 with supporting documentation to KCFO, LOD, PRB.

KCFO, LOD, PRB shall:

- refer debt listed on FSA-1956-21 to Treasury for cross-servicing on a monthly basis
- provide State Offices a report of all loans submitted with each referral to Treasury
- recall or delete CNC debt from cross-servicing as needed
- notify State Offices when debts are disputed, compromised, or returned from cross-servicing.

If Treasury does not receive FSA’s dispute response within 30 calendar days, the debt will be returned as uncollectible. When a duplicate dispute is received, the State Office should notify the contact person on the DMS action form to reference the previous information provided. This will prevent the debt being returned to FSA.

The referrals of debt to cross-servicing and TOP are separate processes. However, a debt must have been certified to TOP to be referred for cross-servicing. The information on the TOP screens is used to validate eligibility for both processes.

2 Cross-Servicing (Continued)

C FSA Collection Activity

Treasury regulations require that FSA stop all collection activity on debts referred for cross-servicing, except TOP offsets, Federal salary offsets, and internal administrative offsets.

Debtors referred to cross-servicing are provided with payment coupons from Treasury and/or PCA's. Debtors must make their payments to Treasury or PCA because there is a significant Treasury/PCA fee debtors must pay.

When a voluntary payment is received from a CNC borrower, the:

- County Office shall call the State Office
- State Office shall call KCFO, LOD, PRB for cross-servicing verification.

If the account has been referred to cross-servicing, the State Office shall notify the County Office to:

- prepare a memorandum to KCFO, LOD, PRB stating the amount of the check and the debtor's name, taxpayer identification number, relationship to the borrower's or co-borrower's loan, case number, and loan number
- mail the check and memorandum to the following.

Attn: Carolyn Lane
Farm Service Agency
Loan Operations Division, FC-533
P.O. Box 200003
St. Louis, MO 63120-0003

Borrowers referred for cross-servicing will continue to have RD 1951-9 and, if applicable, IRS Form 1098 generated at calendar year-end if the account had activity. County Offices shall forward RD 1951-9 to the borrower and a copy to the State Office.

D Discrimination Complaints

Accounts involved in an administrative discrimination complaint are eligible for TOP, but not eligible for cross-servicing, unless directed otherwise by OGC. If a CNC borrower files a complaint and USDA's Office of Civil Rights accepts the complaint, FAX FSA-1956-22 and supporting documentation to KCFO, LOD, PRB to recall the debt from cross-servicing.

2 Cross-Servicing (Continued)

E Debt Settlement Offers

CNC debt may be settled by FSA upon application by the borrower, if the debt has not been referred to Treasury for cross-servicing, or if all of the borrower's loans have been returned from cross-servicing. If a CNC borrower submits or inquires about a debt settlement application, the State Office shall contact KCFO, LOD, PRB to determine whether the account has been referred for cross-servicing.

IF the account has...	THEN inform the borrower that...
both of the following: <ul style="list-style-type: none"> • been referred for cross-servicing • at least 1 loan is still at cross-servicing 	the debt is now at Treasury and negotiations need to be with Treasury. Borrowers: <ul style="list-style-type: none"> • may contact Treasury at 1-888-826-3127 • will not be provided appeal rights for settlements rejected by Treasury and returned to FSA.
either of the following: <ul style="list-style-type: none"> • not been referred for cross-servicing • all of the borrower's loans have been returned from cross-servicing 	a debt settlement offer may be considered. See RD Instruction 1956-B for processing debt settlements.

If a debt settlement offer is received after the State Office has submitted the debt for cross-servicing referral, the State Office should notify KCFO, LOD, PRB immediately by FAX at 314-539-6266. Include the terms of the debt settlement offer and request a delay in referring the debt for cross-servicing until a decision is made. Notify KCFO, LOD, PRB immediately when a decision is made. If the offer is rejected, the debt will be sent to Treasury for cross-servicing in the next referral.

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3 Account Resolution After Referral to Cross-Servicing

A Process

Treasury notifies FSA of some repayment agreements, all compromises, and all uncollectible debt on a loan-by-loan basis, not by account. In cases where a debtor has more than one FSA loan referred to cross-servicing and FSA is advised of an agreement to compromise or adjust 1 loan or several loans, but not all of the debt, SED may approve the settlement agreements on a loan-by-loan basis. However, cancellation of any loan balances remaining on the compromised or adjusted loans will not be processed until all:

- payments have been received as agreed
- loans eligible for referral to the cross-servicing program for that debtor have been returned, with or without payment agreements, to FSA
- co-borrower issues are resolved, including recall.

B Action

The following actions shall be taken to resolve debts.

Step	Office	Action
1	State Office	Receive Treasury's Debt Management Services (DMS) action form or concurrence request from KCFO, LOD, PRB about the repayment agreement/adjustment offer, compromise offer, or report returning the debt to FSA as uncollectible.
		Based upon the information in the case file, determine whether the debt is eligible for settlement through the proposed repayment/adjustment offer, compromise offer, or if the debt can be canceled.
		Repayment/Adjustment Offers and Compromise Offers
		<p>SED shall:</p> <ul style="list-style-type: none"> • obtain concurrence from the U.S. Attorney or FSA FLP National Office, if necessary • sign the DMS action form • ENTER "Y" or "N" in the "Approved" column, as applicable • FAX to KCFO, LOD, PRB. <p>Notes: Include supporting documentation, if needed, to substantiate why greater repayment is warranted.</p> <p>Approved agreements must not exceed 5 years according to RD Instruction 1956-B.</p>

3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

Step	Office	Action
1 (Cntd.)	State Office (Cntd.)	<p>Cancellation</p> <p>The account balance can be considered for cancellation when:</p> <ul style="list-style-type: none"> all of the debtor's loans eligible for referral to the cross-servicing program have been returned from the cross-servicing program all payments have been received from any compromise or adjustment offers negotiated by Treasury. <p>The account balance will be canceled if there are no known collections that FSA will receive through TOP or FSA's administrative offset process. Known collections are from payments that FSA is certain it will receive from offsets in the near future, such as Social Security benefits, federal salary, farm program payments, etc., for an amount sufficient to reduce the overall balance of the debt.</p> <p>Cancellation of a debtor's account balance will be completed according to RD Instruction 1956-B or RD Instruction 1956-B, Exhibit B, as appropriate. If 1 or more of a debtor's loans have been canceled using the debt cancellation authority under the Federal Claims Collection Standards, the remaining account balance can be canceled under RD Instruction 1956-B. If a debtor has received debt forgiveness under the CONACT authorities, such as a write-down through 1951-S loan servicing, the remaining account balance can be canceled according to RD Instruction 1956-B, Exhibit B.</p> <p>SED's shall:</p> <ul style="list-style-type: none"> process the loan cancellation as appropriate using RD 1956-1 prepare a memorandum advising KCFO, LOD, PRB of the cancellation FAX the signed memorandum to KCFO, LOD, PRB. <p>Note: The State Office shall obtain any necessary concurrence before canceling the debt.</p>

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3 Account Resolution After Referral to Cross-Servicing (Continued)

B Action (Continued)

Step	Office	Action
2	KCFO, LOD, PRB	Repayment/Adjustment Offers and Compromise Offers
		FAX the signed DMS action form to Treasury. Once the full amount of the repayment/adjustment or compromise is applied, FAX a memorandum to the State Office notifying the State that the full amount of the repayment/adjustment or compromise has been collected and applied to the debt.
		Approved Cancellations
		When cancellations cannot be processed by the State Office, KCFO, LOD, PRB shall: <ul style="list-style-type: none"> • notify the appropriate loan servicing team to process cancellations approved by SED • FAX a memorandum to the State Office once the cancellation has been completed.
3	State Office	<p>Attach KCFO, LOD, PRB memorandums, State Office memorandums, and any applicable forms to the State Office copy of FSA-1956-20 or FSA-1956-10, if CNC was before September 11, 2000.</p> <p>Forward a copy of the KCFO, LOD, PRB memorandum and any applicable forms to the Farm Loan Manager.</p>
4	County Office	<p>File KCFO, LOD, PRB memorandums, State Office memorandums, and any applicable forms in the case file.</p> <p>After all payments have been processed, stamp the promissory note "Satisfied by Completed Adjustment Offer," "Satisfied by Approved Compromise", or "Satisfied by Approved Cancellation", as applicable, and return the satisfied notes to the borrower.</p> <p>In cases where the debt is returned as uncollectible, but cannot be canceled, continue monitoring the account until it is eligible for cancellation, then process the cancellation according to RD Instruction 1956-B or RD Instruction 1956-B, Exhibit B.</p>